Lewis County

Community Development Department

Divisions:
Administration
Code Compliance
Building & Fire Safety
Permit Center • Planning
Solid Waste Utility

350 N. Market Boulevard ◆ Chehalis, WA 98532-2626 ◆ (360) 740-1146 ◆ Fax: (360) 740-1245 ◆ TDD: (360) 740-1480 ◆ www.co.lewis.wa.us

Why do this Update?

The Growth Management Act (GMA) requires designation and protection of Critical Areas (RCW 36.70A.170). Lewis County originally adopted Critical Area regulations in 1996 and updated them in 1998 and 200.

This update to the regulations is designed to respond to a mandate of the state legislature to include "Best Available Science" in designating and protecting Critical Areas and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

What is "protection" of Critical Areas?

There are several Growth Management Hearings Board and court cases that have provided clarification of what is meant by protection of critical areas. One of the most important cases defined protection as:

The Act's requirement to protect critical areas, particularly wetlands and fish and wildlife habitat conservation areas means that the values and functions of such eco systems must be maintained. While local governments have the discretion to adopt development regulations that may result in localized impacts upon, or even the loss of, some critical areas, such flexibility must be wielded sparingly and carefully for good cause, and in no case result in a net loss of the value and functions of such eco systems within a watershed or other functional catchment area. (*Tulalip Tribes of Washington (Tulalip I) v. Snohomish County,* CPSGMHB Case No. 96-3-0029)

What is Best Available Science?

The Washington Department of Commerce, Trade and Economic Development (CTED) has been charged with developing specific guidelines on what constitutes Best Available Science, which is found in Chapter 365-195 of the Washington Administrative Code (WAC). A brief summary is provided below:

Scientific information is recognized if it results from a valid scientific process that may include the following:

1. Peer review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline.. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed.
2. Methods. The methods that were used to obtain the information are clearly stated and able to be replicated. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to assure their reliability and validity.
3. Logical conclusions and reasonable inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions.
4. Quantitative analysis. The data have been analyzed using appropriate statistical or quantitative methods.
5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.
6. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

What if there is uncertainty about scientific information?

In cases where there is an absence of valid scientific information or incomplete scientific information, the following approach is mandated in WAC 365-195-920.

1. A "precautionary or a no risk approach," in which development and land use activities are strictly limited until the uncertainty is sufficiently resolved; and
2. As an interim approach, an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions achieve their objectives. To effectively implement an adaptive management program, counties and cities should be willing to:
   (a) Address funding for the research component of the adaptive management program;
   (b) Change course based on the results and interpretation of new information that resolves uncertainties; and
   (c) Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting critical areas protection and anadromous fisheries.

Who will decide what the "Best Available Science" is and how to incorporate it in the Critical Area regulations.

Lewis County has hired a consulting firm, Parametrix, to provide scientific advice in developing the new regulations. Parametrix has helped a variety of cities and counties update their Critical Areas regulations. The consultant will provide the following:

1. Prepare a Best Available Science (BAS) record that summarizes existing scientific information on each type of Critical Area and relate that information to conditions in Lewis County.
2. Evaluate the existing Critical Area regulations in view of their effectiveness in meeting the criteria of maintaining the values and functions of ecosystems or protecting the public health and safety.
3. Develop alternative approaches to achieving the goals.
4. Prepare a Draft Proposal

The consultant work will be reviewed by a Critical Areas Technical Group which will bring together a broad range of people familiar with critical area resources in Lewis County, including representatives of state and local agencies.

The recommendations will be presented in several public workshops and ultimately be reviewed by the Planning Commission who will make a recommendation to the Board of County Commissioners. The County Commissioners will hold additional hearings and will adopt code revisions.

What are Critical Areas?

Lewis County's Critical Areas are environmentally sensitive natural resources that have been designated for protection in accordance with the requirements of the State Growth Management Act. Protection of these areas is required for the preservation of their ecological functions and values as well as the protection of the public health, safety and welfare of our community.

Critical Areas are defined by state law (RCW 36.70A.172, 1995) and include the following:

- Wetlands
- Critical Aquifer Recharge Areas
- Fish and Wildlife Habitat Conservation Areas (Includes Streams and Lakes as well as other resources)
- Frequently Flooded Areas
- Geologically Hazardous Areas

What are Wetlands?

Wetlands are areas that, under normal circumstances, are inundated or saturated by surface or groundwater frequently enough and long enough to support vegetation that is adapted for life in saturated soil conditions. Wetlands generally include swamps (forested), marshes (non-forested), bogs (peat) and other similar areas, and may be either freshwater or estuarine systems. Wetlands perform a variety of beneficial functions, including:

- Habitat diversity and food chain support for fish and wildlife;
- Erosion control and shoreline stabilization;
- Maintenance of stream flows by gradually releasing stored water after floods and wet seasons;
- Storage of storm and flood waters;
- Improvement of water quality through filtration and retention of sediments, nutrients and contaminants; and
- Groundwater recharge.

What are Critical Aquifer Recharge Areas?

An aquifer is a permeable subsurface soil or rock layer that is capable of storing, transmitting and supplying a significant amount of ground water to wells or springs. Critical aquifer recharge areas are areas that have been identified as having a critical effect on aquifers used for potable water and as being highly susceptible to groundwater contamination. A goal of the CAO is to preserve, protect, and conserve Lewis County's groundwater resources for current and future generations by protecting these areas from contamination.

What are Fish and Wildlife Habitat Conservation Areas?

Fish and Wildlife Habitat Conservation Areas include:

Endangered Species and Habitat – species officially designated by the State and/or the federal government as Fish and Wildlife Service under the Federal Endangered Species Act (ESA) as endangered, threatened, sensitive, or candidate.

Habitats and Species of Local Importance – Habitats and species of local importance include species and habitat that supports both vulnerable and recreationally important species.

Waters of the state –most rivers, streams, lakes as well as smaller ponds that provide fish or wildlife habitat
Other habitat areas defined on a local basis that may include waters planted with game fish,natural area preserves and natural resource conservation areas and similar resources.

What are Frequently Flooded Areas?

Frequently flooded areas are areas located along major rivers, streams and coastal areas that are inundated by a depth, velocity, intensity and frequency of flood waters during major events that are of such a magnitude that they pose significant, and potentially devastating, risks to human life and property.

What are Geologically Hazardous Areas?

Geologically hazardous areas are areas that, due to their susceptibility to erosion, sliding, earthquake, or other geological events, may expose development tto risks that are inconsistent with the protection of public health and safety. These include landslide hazard areas, seismic hazards, mine hazards, alluvial fans, and erosion hazards areas.

What is the Schedule

The timeline below indicates the general steps in the process and opportunities for public input.

Month	May	June	July	Aug	Sept	Oct	Nov	Dec
Geologic Hazards								
Floodplains CARA								
Wetlands								
Fish & Wildlife Habitat								
Proposed Code								
Review & Revision								
Adoption								*
Public Meetings	**May 3, Overview**		**Geologic Hazards Floodplains**	**Wetlands, Habitat Areas**	**Overview**	**Planning Commission Wrokshops & Heari**	**County Commissioners Workshops & Heari**	

How can I know what is happening?

Lewis County Community Development Department will provide a variety of mechanisms for interested members of the public to participate in the Critical Areas Update.

Information Sources including Draft Best Available Science Reports will be available at:

- A Website for the Project will be maintained at http://www.co.lewis.wa.us
- At the County Department of Community Development
- At local libraries

Public Meetings will include

- Public workshops to be held in March, July, August and September
- Planning Commission Workshops and Hearings will be held in September and October
- Board of County Commissioners Workshops and Hearings will be held in November

Citizens may attend meetings of the Critical Areas Technical Group held approximately every two weeks starting in mid May.

Contact Kernen Lien, Lewis County Senior Planner, 360-740-1487. A special email account has been set up for Critical Area Ordinance Update inquiries coa@co.lewis.wa.us.